IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 206 of 2006

1. The New India Assurance Company Limited
   Divisional Office, Judgee Court, Nainital Road
   Haldwani (Nainital)
2. Sri S.K. Gupta
   Branch Manager
   The New Indian Assurance Company Limited
   Bajpur Road, Kashipur
   District Udham Singh Nagar .....Applicants

Vs

1. State of Uttaranchal
   through its Secretary in the Department
   of Home Affairs, Dehradun
2. Nagar Palika Parishad
   Kashipur (Udham Singh Nagar)
   Through its Executive Officer .... Respondents

Sri T.A. Khan, learned counsel for the applicants
Sri Pradeep Lahoni, learned counsel for the respondent No. 2
Learned A.G.A. or the State

Hon'ble B.C. Kandpal, J.

By way of this petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 07.02.2006 passed by the Judicial Magistrate, Kashipur, District Udham Singh Nagar by which the summoned have been issued to the petitioners.

2. Brief facts giving rise to this petition are that the complaint was filed by the Nagar Palika Parishad, Kashipur against the petitioners with the allegations that the petitioners did not get the license renewed since 1998 to 2005 as a result of which the Nagar Palika Parishad/complainant has suffered a loss of Rs. 1,38,000/-. Learned Magistrate after having perused the complaint issued summons against the petitioners vide impugned order dated 07.02.2006.

3. Heard Sri T.A. Khan, learned counsel for the petitioners, Sri Pradeep Lahoni, learned counsel for the respondent No. 2, learned A.G.A. for the State and perused the record.

4. After having considered the arguments advanced by the learned counsel for the petitioners, I am of the view that there is no abuse of process of court.

5. Learned counsel for the petitioner has argued that under the similar circumstances, the Life Insurance Company against whom the summons were issued by the court of Judicial Magistrate, Kashipur, has been exonerated. He has produced the copy of the order passed by the Judicial Magistrate in this regard.

6. The copy produced before me shows that the Life Insurance Company in that case appeared before the Judicial Magistrate in pursuance to the order passed by the court for summoning the accused. Therefore, the Insurance Company filed its objection and the Judicial Magistrate after considering the pleadings of both the parties passed by the order for exonerating the Life Insurance Company. The situation in the instant case is quite different , as the petitioners have not yet been appeared before the trial court, therefore, the judgment produced by the learned counsel for the petitioners is of no avail at this stage.

7. I do not find any sufficient ground to interfere in the impugned order dated 07.02.2006 for summoning the petitioners.

8. Therefore, the petition lacks merit and is liable to be dismissed.

9. Accordingly, the petition under Section 482 Cr. P.C. is dismissed.

10. However, it is made clear that the petitioners after appearing before the court concerned may file their objection and the learned Magistrate shall decide the matter thereafter in accordance with law.

(B.C. Kandpal, J.)

05.08.2006
ASWAL